

February 23, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L06P0008**
Proposed Ordinance No. **2007-0035**

PANTHER RIDGE
Preliminary Plat Application

Location: 18404 – 102nd Avenue Southeast

Applicant: Seattle Redevelopment, LLC
represented by **Matt Cyr**
ESM Consulting Engineers, LLC
33915 – 1st Way South, Suite 200
Federal Way, Washington 98003
Telephone: (253) 838-6113

King County: Department of Development and Environmental Services (DDES)
represented by **Chad Tibbits**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve subject to conditions
Approve subject to revised conditions
Approve subject to revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened: February 13, 2007
Hearing Closed: February 13, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

- Jurisdiction to apply road construction standards
- Fire and emergency vehicle access
- Plat layout (design)

SUMMARY:

The proposed subdivision of 22 lots on 3.44 acres in the urban area is approved.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Owner/Developer:	Seattle Redevelopment, LLC Attn. Marc Rousso P.O. Box 2566 Renton, WA 98056 206-948-8899
Engineer:	Jaeger Engineering 9419 South 204 th Place Kent, WA 98031 253-850-0934
STR:	32-23-05
Location:	18404 - 102 nd Avenue SE
Zoning:	R-8
Acreage:	3.44 acres
Number of Lots:	22
Density:	Approximately 6.39 units per acre
Lot Size:	Range from 4,750 to 5,547 square feet in size
Proposed Use:	Single-family Detached Dwellings
Sewage Disposal:	Soos Creek Water and Sewer District
Water Supply:	Soos Creek Water and Sewer District
Fire District:	King County Fire District No. 40
School District:	Renton School District No. 403
Complete Application Date:	February 23, 2006
Associated Application:	Drainage Adjustment file no. L06V0080

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the February 13, 2007, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.
3. The proposed subdivision abuts 102nd Avenue Southeast along the west property line. 102nd Avenue Southeast is entirely within the jurisdiction of the City of Renton. All improvements to 102nd Avenue Southeast will be subject to review and approval by the City of Renton.

The City of Renton has requested that internal streets within the subdivision also be improved to City of Renton standards. There is no interlocal agreement between the City of Renton and King County to require development within King County to meet City of Renton standards, notwithstanding that the proposed subdivision is within the City of Renton's potential annexation area. King County road standards are applicable to the internal streets within the proposed subdivision.

4. Safe passage of fire and other emergency vehicles is constrained by on-street parking when there is inadequate pavement width to accommodate both parked vehicles and emergency vehicles. King County Fire District No. 40 has shown by substantial evidence that if a street width is less than 28 feet, parking permitted on either side of the street interferes with the rapid passage of fire and other emergency vehicles. Similarly, if pavement width is less than 36 feet, and vehicles are parked on both sides of the street, fire and emergency vehicle access is substantially constrained. Such constraint occasionally requires that vehicles be moved to enable emergency vehicles to pass. This causes an increase in the response time to emergency incidents.

The Applicant for this subdivision has agreed to provide a minimum 28 foot pavement width for Southeast 184th Place, with sidewalk on one side of the roadway. This would enable parking to be permitted on one side of Southeast 184th Place without constraining emergency vehicle access. It is the responsibility of the King County Department of Transportation to provide signing that would prohibit parking on one side of the street, to assure unconstrained access of fire and other emergency vehicles.

5. The Applicant has considered various layouts for the proposed subdivision, and has considered the impact of the subdivision design on adjacent properties. No alternative design appears feasible to accomplish a 22 lot development. 22 dwelling units is the minimum number required on this property to meet the requirements of the R-8 zone classification.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste,

parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.

3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on February 23, 2006, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. Improvements of the plat roads and access tracts within King County are subject to the King County Road Standards. There is no authority for King County to require the Applicant to meet City of Renton standards for construction within King County. Improvements to 102nd Avenue Southeast are subject to the jurisdiction of the City of Renton.
6. Safe fire and emergency vehicle access within this development may require that parking be restricted to one side of Southeast 184th Place if the pavement width of that street is between 28 feet and 36 feet. If the pavement width is less than 28 feet, parking may be restricted from both sides of Southeast 184th Place to assure safe fire and emergency vehicle access along the full length of the street. The King County Department of Transportation should review the approved construction of Southeast 184th Place and establish parking restrictions consistent with the need to assure unimpeded fire and emergency vehicle access to all lots within the plat.
7. The lot layout of the proposed subdivision is consistent with the minimum density requirement and the maximum density permitted for property in the R-8 zone classification. The lot layout is reasonable and consistent with the public interest in achieving urban densities within the urban area of King County.

DECISION:

The proposed preliminary plat of Panther Ridge, as revised and received on February 23, 2006, is approved, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads within the plat shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. Final plat approval shall require compliance with the conditions of the fire systems review approval date March 29, 2006 (exhibit no. 16).
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The stormwater facilities for this site shall be designed to meet at a minimum the Conservation Flow Control and Basic Water Quality requirements in the 2005 King County Surface Water Design Manual (KCSWDM).
 - e. A Surface Water Drainage Adjustment (L06V0080) is approved for this site. All conditions of approval for this adjustment shall be met prior to approval of the engineering plans.

- f. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. SE 184th Pl shall be improved at a minimum to the urban subaccess street standard, with a cul-de-sac at the east end. In addition, Southeast 184th Place shall be improved with a minimum 28-foot wide road width (as agreed by the Applicant) to enable parking on one side of Southeast 184th Place without constraining fire and emergency vehicle access.

The proposed Southeast 184th Place connection to 102nd Avenue Southeast is within the City of Renton. Any construction on the City right-of-way will require separate permitting from the City of Renton.
 - b. The proposed joint use driveways shall comply at a minimum with Section 3.01 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and the final plat. (See also Condition 11.)
 - c. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. There shall be no direct vehicular access to or from 102nd Avenue SE from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.

11. Lots utilizing the Joint Use Driveways shall have undivided ownership of Tract B and Tract C and will be responsible for maintenance. A note to this effect shall be placed on the engineering plans and final plat. (Lots abutting the joint-use driveway tracts that do not have access to those tracts shall not be required to participate in the maintenance of the tracts.)
12. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
13. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation space.
14. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.

- g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 102nd Avenue SE is on a bus route. If 102nd Avenue SE is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
15. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.
16. To implement K.C.C. 16.82 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 16.82, as well as the conceptual tree retention plan dated June 12, 2006. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 16.82. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 16.82.
17. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 16.82 (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 23rd day of February, 2007.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 23rd day of February, 2007, to the parties and interested persons of record:

Georgeta Calagiu
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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before March 9, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before March 16, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE FEBRUARY 13, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0008.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits, Bruce Whittaker, Nick Gillen and Kristen Langley, representing the Department; and Matt Cyr and James Jaeger representing the Applicant.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L06P0008
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report dated February 13, 2007
- Exhibit No. 3 Application for Land Use Permits received February 23, 2006
- Exhibit No. 4 SEPA checklist received February 23, 2006
- Exhibit No. 5 SEPA Determination of Non-Significance issued January 5, 2007
- Exhibit No. 6 Affidavit of Posting indicating a posting date of May 22, 2006; received by DDES on May 26, 2006
- Exhibit No. 7 Preliminary plat map received February 23, 2006
- Exhibit No. 8 Revised Level 1 Downstream Drainage Analysis prepared by Jaeger Engineering, Inc., received August 2, 2006
- Exhibit No. 9 L06V0080 King County Storm Water Drainage Manual (KCSWDM) Adjustment, dated October 19, 2006
- Exhibit No. 10 Wetland Reconnaissance Report prepared by Chad Armour, LLC, received February 23, 2006
- Exhibit No. 11 Revised Conceptual Drainage Plan prepared by Jaeger Engineering, Inc., received October 24, 2006
- Exhibit No. 12 Street Tree, Open Space/Rec & Significant Tree Retention Plan prepared by ESM Consulting Engineers, LLC, received June 12, 2006
- Exhibit No. 13 School Walking Conditions Analysis prepared by ESM Consulting Engineers, LLC, received June 12, 2006
- Exhibit No. 14 Offsite Road Inventory, received June 12, 2006
- Exhibit No. 15 Aerial map of subject area
- Exhibit No. 16 Fire System Review – Permit Approval Conditions approved March 29, 2006
- Exhibit No. 17 Letter from City of Renton re: determination of non-significance, dated January 17, 2007
- Exhibit No. 18 Proposed Modification to Condition 7 written by Bruce Whittaker, Senior Engineer and dated February 12, 2007
- Exhibit No. 19 Letter from Sandy Haydock, Fire District 40 dated January 19, 2007
- Exhibit No. 20 Photographs or emergency vehicles with annotations (2 pages, color copies)